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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Kukula et al. :
Application No. 10/046,220 : DECISION GRANTING PETITION
Filed: January 16, 2002 :
Attorney Docket No. :
06816.0036.NPUS.01 :
:

This is a decision on the petition filed May 23, 2002, requesting that Figure 5E described in the specification be accorded a filing date of January 16, 2002, as part of the original disclosure.

On January 16, 2002, applicants filed the above-identified application. On February 28, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of January 16, 2002, and requiring applicants to submit an executed oath or declaration and a \$130.00 surcharge for its late filing. Additionally, the Notice advised applicants that Figure 5E described in the specification appeared to have been omitted.

In response, May 23, 2002, applicants filed the present petition, the petition fee, and one (1) sheet of drawings consisting of Figure 5E. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of "50 sheets of drawings (Figures 1-3, 4A-4K, 5A-5E, 6A-6J, 7A-7B, 8A-80, 9, 10, 11, and 12)" on January 16, 2002. Applicants requested that the application, including Figure 5E, be accorded a filing date of January 16, 2002, and the petition fee be refunded.

Upon review of the record, Figure 5E, deposited on January 16, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 16, 2002, included Figure 5E, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 5E, was complete on filing and entitled to a filing date of January 16, 2002.

Accordingly, the petition is granted.

The Notice's requirement for the omitted item was sent in error and is hereby vacated. Accordingly, the petition fee is unnecessary and will be credited to Deposit Account No. 08-3038.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 16, 2002, using Figures 1-3, 4A-4K, 5A-5D, 6A-6J, 7A-7B, 8A-80, 9, 10, 11, and 12 submitted on January 16, 2002, and Figure 5E submitted on May 23, 2002. Additionally, the Office records should indicate that 50 sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

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